

Appl. No. 09/890,677

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Atty. Docket No. 7419

Amdt. dated: 02/03/04

Amendment & Reply to the Office Action dated 10/03/03

REMARKS

The pending claims showing the amendments herein are represented above.

The specification has been amended in order to appropriately reference the priority claims.

The specification has also been amended to include an Abstract on a Separate Sheet.

Claims 13, 21, and 23 have been amended to incorporate the preferred embodiment originally presented as Claim 16. Therefore, Claim 16 has been cancelled without prejudice.

Claim 18 has been amended to correct the dependency to a pending claim.

Claim 22 has been amended to clarify the type of particles.

Support for these amendments is found, at a minimum, in the original claims and the Filing Receipt.

Upon the entry of the amendments presented, Claims 13-23 are pending in the present application. No additional claims fee is believed to be due. It is believed that these changes do not involve the introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

OBJECTION TO SPECIFICATION

The Office Action has objected to the Specification as it does not contain an abstract of the disclosure as required by 37 CFR 1.72(b).

By the amendments herein, an Abstract of the disclosure is provided on a separate sheet. Therefore, Applicants submit that this objection has been overcome and should be withdrawn.

OBJECTION TO PRIORITY

The claim to an earlier filing date of the provisional application under 35 USC 119(e) in this application has been rejected based upon Applicants' failure to claim priority as the first sentence of the specification.

By the amendments herein, the specification has been amended to include the appropriate domestic priority claims to both the PCT filing and two provisional filings under 35 USC 119(e). Such priority was already indicated on the Filing Receipt and application papers. Therefore, Applicants respectfully request that the priority to such provisional application now be granted.

ART REJECTIONS

Claims 13, 14, 17, 18, and 20-23 have been rejected under 35 U.S.C. § 102(b) as anticipated by Cao et al. (U.S. 4,828,723).

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Claims 13, 14, 17, 18, and 20-23 have been rejected under 35 U.S.C. § 102(b) as anticipated by GB 2,168,377.

Claims 15 and 19 have been rejected under 35 U.S.C. § 103(a) as obvious in view of Cao, et al. (U.S. 4,828,723).

Claims 15 and 19 have been rejected under 35 U.S.C. § 103(a) as obvious in view of GB 2,168,377.

Applicants respectfully traverse these rejections as applied to the claims as amended herein.

As amended herein, all of the pending claims have been amended to include the preferred embodiment originally presented as part of Claim 16. Claim 16 was not rejected over either Cao, et al., or GB '377 in the Office Action. Therefore, Applicants respectfully submit that the claim amendments submitted herein overcome all of the rejections presented in the Office Action.

Therefore, Applicants respectfully submit that these rejections should be withdrawn and all of the pending claims are now in condition for allowance.

DOUBLE PATENTING

Claims 13-23 have been rejected under the judicially created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,503,876. The Office Action argues that although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-16 of U.S. 6,503,876 encompass the material limitations of the instant claims.

Without addressing the merits of this rejection, Applicants are submitting a terminal disclaimer over the subject matter of Claims 1-16 of U.S. Patent No. 6,503,876 concurrently with this response. As the present application and the U.S. 876 patent are commonly owned, this terminal disclaimer overcomes the double-patenting rejection.

Therefore it is respectfully submitted that this rejection has been overcome and should be withdrawn.

CONCLUSION

Applicants have made an earnest effort to place their application in proper form and to distinguish their invention from the applied prior art. WHEREFORE, Applicants respectfully request entry of the amendments presented, reconsideration of this application, withdrawal of the

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objections to the specification, withdrawal of the rejections under 35 U.S.C. § 102(b) and 103(a),
withdrawal of the double-patenting rejection, and allowance of Claims 13-23.

Respectfully submitted,
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